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1 CLEARLY NATURAL & Design for "household cleaning preparations made from
2 natural ingredients" in International Class 3 on December 16, 2003 based on use of the
3 mark in commerce since September 3, 2002.

4 2. Petitioner is engaged in the business of marketing and selling glycerine
5 soaps.

6 3. Petitioner uses the trademark CLEARLY NATURAL for glycerine soaps
7 in interstate commerce, and has used the mark in association with such goods since as
8 early as 1978.

9 4. Petitioner owns Federal Trademark Reg. No. 1,306,698, for the CLEARLY
10 NATURAL mark for "glycerine toilet soap," based on first use in commerce as early as
11 October 15, 1978. Accordingly, Petitioner's mark is presumed to be inherently
12 distinctive.

13 5. Registration No. 1,306,698 was issued on November 27, 1984 and has
14 been renewed pursuant to the provisions of the Lanham Act. Registration No. 1,306,698
15 has become incontestable and is owned by Petitioner.

16 6. Registration No. 2,794,939, sought to be cancelled, is for "household
17 cleaning preparations made from natural ingredient." Such goods are closely related to
18 those of Petitioner.

19 7. Petitioner has expended considerable effort and expense in promoting its
20 trademark CLEARLY NATURAL and the goods sold under said mark. As a result, the
21 consuming public has identify Petitioner as the source of said goods. Petitioner has
22 valuable goodwill established in its mark.

23 8. Petitioner is and will continue to be injured and damaged by the existence
24 of Registration No. 2,794,939. Likelihood of confusion will result from such concurrent
25 use by Petitioner and Registrant of identical trademarks on similar products.

26 9. Purchasers are likely to consider the goods of the Registrant sold under the
27 mark CLEARLY NATURAL & Design as emanating from Petitioner.

28 10. Concurrent use of the marks by Petitioner and Registrant is likely to result

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1 in irreparable damage to Petitioner's reputation and goodwill.

2 11. If Registrant is permitted to maintain its registration, Petitioner's exclusive
3 right to use the mark will be curtailed, causing injury to Petitioner's goodwill.

4 WHEREFORE, Petitioner prays that Registration No. 2,794,939 for CLEARLY
5 NATURAL & Design be canceled and that this Petition for Cancellation be sustained in
6 favor of Petitioner.

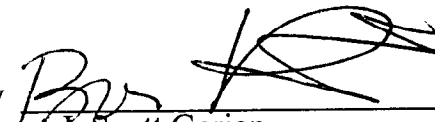
7 A duplicate copy of this petition is enclosed herewith along with a check for
8 \$300.00 for the filing fee.

9 Respectfully submitted,

10 OWEN, WICKERSHAM & ERICKSON, P.C.

11
12 Dated: October 14, 2004

By


J. Scott Gerien
Bonnie J. Barnish

13
14 455 Market Street, 19th Floor
15 San Francisco, CA 94105

16 Attorneys for Petitioner
17 Robert Rice

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